

Appendix I

Judicial Enforcement Activities

Fiscal Years 1997 to 1999

EPA is empowered by Congress to take enforcement action against parties that violate Federal environmental laws. Federal environmental laws contain enforceable standards which, when violated, are subject to enforcement (provided, of course, that the law at issue, e.g., the Clean Water Act, authorizes the enforcement).

Most all environmental statutes authorize both the assessment of a **civil penalty** for violations and injunctive relief to bring the violator back into compliance. The Federal environmental laws also provide for criminal penalties and jail time for egregious violations. Civil penalties work best for single, noncontinuous violations.

However, in cases in which the violations continue, a civil penalty in itself is insufficient to bring the violator into compliance. Therefore, judges (and EPA) can order a violator to cease its violative behavior. This is what is known as **injunctive relief** (IR). An injunction is simply a court order to do, or refrain from doing, a particular act. An injunction is limited to those measures that a violator must undertake to achieve and maintain final compliance (and to reduce the adverse effect(s) of the violations to the greatest extent practicable pending the achievement of final compliance).

The Federal environmental laws also empower EPA to issue administrative orders that require a regulated entity to perform, or refrain from performing, some designated action, and to come into, and maintain, compliance with those environmental laws.

A **Supplemental Environmental Project**, or SEP, is defined as an environmentally beneficial project that a violator agrees to undertake in settlement of an enforcement action, but which the violator is not otherwise legally required to perform. To be considered a SEP, the project proposed by the Defendant must be significantly in excess of what is necessary to achieve and maintain

compliance with all applicable environmental laws. The SEP is incorporated as an enforceable term of settlement. In exchange for performance of the SEP, the entity will receive a partial offset against the penalty assessed in settlement of the action.

EPA places particular emphasis upon SEPs since they provide direct environmental and/or public health protection and improvement (and other benefits, such as pollution prevention, environmental justice, and environmental education). While injunctive relief and penalties also achieve this goal, SEPs represent a commitment on the part of a regulated entity to exceed compliance requirements.

The following tables provide the total numbers and dollar amounts of SEPs, IR, and penalties that were secured through settlement and litigation of enforcement actions during fiscal years 1997 to 1999. (Source: EPA Offices of Regional Counsel, Regions 2, 3, and 5).



Total values for Supplemental Environmental Projects (SEPs)

Region	1997		1998		1999	
	Dollars	Cases	Dollars	Cases	Dollars	Cases
2	\$85,128.00	3	\$119,596.00	2	\$80,626.00	2
3	\$0.00	0	\$0.00	0	\$17,028.00	2
5	\$8,502,969.50	42	\$9,699,064.00	30	\$71,774,891.00	19
Totals	\$8,588,097.50	45	\$9,818,660.00	32	\$71,872,545.00	23

$$T_1 = \$90,249,302.50$$

Total values for Injunctive Relief (IR)

Region	1997		1998		1999	
	Dollars	Cases	Dollars	Cases	Dollars	Cases
2	\$20,012,000.00	5	\$75,768,000.00	10	\$216,127.00	10
3	\$6,000,000.00	0	\$0.00	0	\$0.00	0
5	\$78,189,360.00	67	\$144,229,464.00	122	\$141,488,458.00	157
Totals	\$98,201,360.00	72	\$219,997,464.00	132	\$157,469,458.00	167

$$T_2 = \$475,668,282.00$$

Total values for Penalties

Region	1997		1998		1999	
	Dollars	Cases	Dollars	Cases	Dollars	Cases
2	\$191,953.00	6	\$252,485.00	9	\$216,127.00	15
3	\$480,300.00	5	\$223,875.00	3	\$40,195.00	5
5	\$3,391,459.00	41	\$11,546,958.00	207	\$10,422,476.00	169
Totals	\$4,063,712.00	11	\$12,023,318.00	219	\$10,678,768.00	189

$$T_3 = \$26,765,828.00$$

$$T_1 + T_2 + T_3 = \$592,683,412.50$$

